

TTAB

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In the matter of trademark Registration No.
1,667,579
for the mark: IN-SYNC PUBLICATIONS
Date Registered: December 10, 1991

ZEEKS, INC.

Petitioner,

v.

ROBERT CHRISTY

Respondent

Cancellation No. 92/040,213

ANSWER TO THE PETITION FOR
CANCELLATION



03-18-2002

U.S. Patent & TMO/TM Mail Rcpt Dt. #61

03-18-2002

Box TTAB / No Fee
Assistant Commissioner for Trademarks
2900 Crystal Drive
Arlington, Virginia 22202

CERTIFICATE OF EXPRESS MAILING

I hereby certify that the attached documents are being deposited
with the United States Postal Service as

Express Mail No. EL 23 58 38 016US
addressed to BOX TTAB, Commissioner for Trademarks,
2900 Crystal Drive, Arlington, VA 22202-3513 on March 18,
2002


Peter Asatryan

March 18, 2002

ANSWER TO THE PETITION FOR CANCELLATION

The Registrant answers the Petition for Cancellation as follows:

1. Registrant does not have sufficient knowledge or information to form a belief as to the truth of the allegations contained in Paragraph 1 of the petition and accordingly denies the allegations.
2. Registrant does not have sufficient knowledge or information to form a belief as to the truth of the allegations contained in Paragraph 2 of the of the petition and accordingly denies the allegations.
3. Registrant does not have sufficient knowledge or information to form a belief as to the truth of the allegations contained in Paragraph 3 of the of the petition and accordingly denies the allegations.
4. Registrant denies the allegations contained in Paragraph 4 of the Petition for Cancellation.
5. Registrant admits that it is the owner of a federal trademark registration for the mark IN-SYNC PUBLICATIONS for "trade publication for the motion picture and video industry" in International Class 16, and that the mark was registered on December 10, 1991. Registrant denies all other allegations in Paragraph 5 of the Petition for Cancellation.
6. Registrant admits to the allegations contained in Paragraph 6 of the Petition for Cancellation.

7. Registrant admits that it filed an Affidavit of Use and Incontestability under Sections 8 and 15 of the Trademark Act on June 27, 1997. Registrant denies all other allegations in Paragraph 7 of the Petition for Cancellation.
8. Registrant does not have sufficient knowledge or information to form a belief as to the truth of the allegations contained in Paragraph 8 of the of the petition and accordingly denies the allegations.
9. Registrant denies the allegations contained in Paragraph 9 of the Petition for Cancellation.
10. Registrant does not have sufficient knowledge or information to form a belief as to the truth of the allegations contained in Paragraph 10 of the of the petition and accordingly denies the allegations.
11. Registrant admits to the allegations contained in Paragraph 11 of the Petition for Cancellation.
12. Registrant admits that the Ventura County, California death certificate for Betty Ann Christy is dated March 14, 1993, and shows a residence listing of 5344 Seabreeze Way, Oxnard, California 93035. Registrant denies all other allegations in Paragraph 12 of the Petition for Cancellation.

13. Registrant denies the allegations contained in Paragraph 13 of the Petition for Cancellation.
14. Registrant denies the allegations contained in Paragraph 14 of the Petition for Cancellation.
15. Registrant denies the allegations contained in Paragraph 15 of the Petition for Cancellation.
16. Registrant denies the allegations contained in Paragraph 16 of the Petition for Cancellation.
17. Registrant admits to the existence of the Contract of Sale of Business, dated January 1, 1996, from Richard and Susan Christy to Robert and Jennifer Christy of the In-Sync Publications business including "all the trade, goodwill and other intangible assets." Registrant denies all other allegations contained in Paragraph 17 of the Petition for Cancellation.
18. Registrant denies the allegations contained in Paragraph 18 of the Petition for Cancellation.
19. Registrant denies the allegations contained in Paragraph 19 of the Petition for Cancellation.

20. Registrant denies the allegations contained in Paragraph 20 of the Petition for Cancellation.

21. Registrant denies the allegations contained in Paragraph 21 of the Petition for Cancellation.

Further answering:

22. Registrant affirmatively alleges that no fraud was committed in its filing of the Section 8 and 15 Affidavits for the registered mark. Said Affidavits were accepted and acknowledged by the Trademark Office on August 3, 1999.

23. Registrant affirmatively alleges that by virtue of the duly accepted and acknowledged § 15 Affidavit, registrant's valid registration for the IN-SYNC PUBLICATIONS trademark acquired incontestable status prior to Petitioner's filing of a petition for cancellation.

24. Registrant affirmatively alleges that Petitioner's claim of fraud is unfounded, and therefore Petitioner has no ground on which to base a Petition for Cancellation on registrant's mark which has been in continuous use for more than five (5) years and for which Section 8 and 15 Affidavits have been filed, acknowledged and accepted by the Trademark Office.

FIRST AFFIRMATIVE DEFENSE:

Registrant's federal trademark registration for IN-SYNC PUBLICATIONS has acquired incontestable status, and does not meet any of the criteria set forth in § 14 of the Lanham Act as grounds for cancellation once incontestability status has been reached. Accordingly Petitioner is barred from seeking cancellation of Registrant's trademark.

SECOND AFFIRMATIVE DEFENSE:

Petitioner is barred from maintaining this Petition for Cancellation by the doctrine of estoppel.

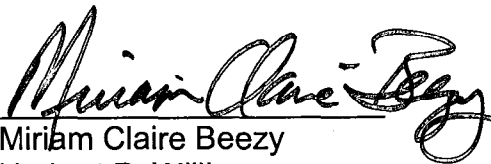
THIRD AFFIRMATIVE DEFENSE:

Petitioner is barred from maintaining this Petition for Cancellation by the doctrine of unclean hands.

Wherefore, Registrant prays that the Petition to Cancel be dismissed with prejudice.

Respectfully submitted,
Attorneys for Registrant

Dated: March 18, 2002

By 
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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing ANSWER was served on Petitioner's attorneys by first class mail on this 18th day of March, 2002. The envelope in which it was mailed was addressed as follows:

Philip Baker-Shenk
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By: 

Teri T. Asatryan